T-RCED-89-31

GA1.5/2:T-RCED-89-3'

MAY 1989

United States General Accounting Office

GAO

Testimony

For Release
on Delivery
Expected at
9:30 a.m. EDT
Wednesday
May 3, 1989

Export of Unregistered Pesticides Is Not Adequately Monitored by EPA

Statement of
J. Dexter Peach, Assistant Comptroller General
Resources, Community, and Economic
Development Division

Before the
Environment, Energy, and Natural Resources
Subcommittee
Committee on Government Operations
House of Representatives

GA 1.5/2:

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here to discuss our report on how the Environmental Protection Agency (EPA) is fulfilling its responsibilities concerning unregistered pesticides that are exported, and notifying foreign governments of U.S. actions taken on some pesticides.[1] These responsibilities are required under Section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. EPA is responsible for export notices to importing countries of unregistered pesticides (sec. 17(a) notices) and worldwide notices of regulatory action on U.S. pesticides (sec. 17(b) notices).

Mr. Chairman, pesticides are chemicals or biological substances designed to destroy or control any unwanted species of plant or animal. They are a mixed blessing: they contribute significantly to agricultural productivity and to improved public health through the control of disease-carrying pests, but they can adversely affect people, nontarget organisms, such as fish and wildlife, and the environment. Because pesticides are designed to kill and control living organisms, exposure to them can be hazardous. Some pesticides exhibit evidence of causing chronic health effects such as cancer or birth defects. Some pesticides persist in the environment over long periods of time and accumulate in the tissues of people, animals, and plants.

In summary, we found that EPA has not established a program to monitor pesticide manufacturers' compliance with the requirement that the manufacturers provide foreign country notifications when they export pesticides that are not registered for use in the United States. Thus, EPA has no assurance that foreign countries are adequately notified of unregistered U.S. pesticides entering

---

[1] Pesticides: Export of Unregistered Pesticides Is Not Adequately Monitored by EPA (GAO/RCED-89-128, Apr. 25, 1989).

their borders. Furthermore, EPA has decided that export notices are not required for unregistered pesticides that are similar in composition and use to U.S.-registered pesticides. We question this policy because it hampers, or virtually blocks, any efforts EPA might make to monitor compliance. This is because EPA would first have to determine whether the unregistered pesticide was a minor variation of a registered pesticide--which is a very cumbersome task. The effect is that the majority of unregistered pesticide exports are exempt from the notice requirement under this policy as well as from the requirement that the label must be clearly marked "Not Registered for Use in the United States of America."

EPA also does not have internal procedures for preparing and issuing notices to foreign countries and international organizations when it has taken significant action on a pesticide because of a serious health or environmental concern. We found that EPA did not send notices for three of four pesticides that were voluntarily canceled out of concern about toxic effects. Consequently, foreign governments may not be alerted to unreasonable hazards associated with using particular pesticides.

What is particularly disturbing about our findings is that they are not new to EPA. We have reported in the past that EPA could improve its implementation of both sections of FIFRA.[2] Ten years ago, for example, we reported that EPA does not monitor pesticide exports, and we offered recommendations aimed at improving EPA's ability to monitor compliance by pesticide manufacturers with FIFRA export notice requirements. We also recommended that EPA implement procedures to ensure that foreign

---

[2]Need to Notify Foreign Nations of U.S. Pesticide Suspension and Cancellation Actions (CED-78-103, Apr. 20, 1978), and Better Regulation of Pesticide Exports and Pesticide Residues in Imported Food Is Essential (CED-79-43, June 22, 1979).

countries are notified of all significant changes in pesticide registration.

FEDERAL PESTICIDE REGULATION

Responsibility for protecting public health and the environment from unsafe pesticide residues is shared primarily by EPA and the Food and Drug Administration (FDA). FDA is responsible for monitoring food for illegal pesticide residues. Under FIFRA, EPA has the authority to regulate the sale and use of pesticides in the United States. FIFRA requires that all pesticides sold in the United States be registered (licensed) for use by EPA. EPA is authorized to register pesticide products, specify the terms and conditions of their use prior to being marketed, and remove unreasonably hazardous pesticides from the marketplace.

EPA is responsible for registering specified uses of pesticide products on the basis of both safety and benefits. A registration must be obtained for each use of a particular pesticide. For instance, a chemical that has been registered for use on wheat must be registered again for use on lettuce and once again for use on apples.

Each company that manufacturers a pesticide to be sold in the United States must register it with EPA. During the registration process, EPA must determine that the pesticide will not cause any unreasonable adverse effects on the environment or humans.

WORLDWIDE PESTICIDE MARKET

Over the past 30 years, the types and amounts of pesticides used worldwide have dramatically increased. Hundreds of pesticides are exported from the United States and other countries each year.

Some of these exported pesticides have been banned or, alternatively, never registered in the exporting countries.

Worldwide pesticide sales have dramatically increased--from 1977 to 1987, the worldwide agricultural chemical market doubled in size to more than $17 billion annually. Although reliable statistics are not available, U.S. pesticide export sales currently represent approximately one-quarter of the world pesticide market. Although U.S. export statistics vary, the best estimates conclude that about 400-600 million pounds of U.S.-manufactured pesticides are exported each year to foreign countries. Other estimates state that the United States supplies approximately half of the pesticides imported in most Latin American countries, where a substantial amount of the fresh fruits and vegetables we eat in the winter months are grown.

About a quarter of the pesticides exported by the United States are products that are not registered for use in the United States. Some of these unregistered exports are pesticides that have been canceled or suspended for U.S. use because they may cause cancer or otherwise endanger humans, wildlife, or the environment. Other exported products have been voluntarily taken off the market by the producer because of economic considerations or concern over potential adverse health or environmental effects. In addition, many pesticide exports consist of products that may never have been registered with EPA.

SECTION 17 NOTICE REQUIREMENTS

Section 17(a) of FIFRA requires that, before an unregistered pesticide is exported, the foreign purchaser has signed a statement acknowledging an awareness that the pesticide is not registered and cannot be sold for use in the United States. EPA requires that the exporter/manufacturer then transmit the foreign purchaser acknowledgment statement to EPA and certify to EPA that shipment

did not occur before the exporter/manufacturer had received the foreign purchaser statement. EPA sends copies of these statements to U.S. embassies in the importing countries, which then forward the statements to the appropriate government officials in the importing countries. EPA requires these statements annually for the first shipment of each unregistered product to a particular purchaser for each importing country. Shipment of the unregistered pesticide may proceed before the foreign government has received the notice, since its purpose is only informational.

The purpose of the export notices is to advise foreign governments that pesticides which the United States has judged to be hazardous to human health or to the environment, or pesticides for which no hazard assessment has been made, are being exported by U.S. producers to their country. Foreign governments may then, in turn, use the information in whatever way they may so choose, including evaluating the risk of continued use of the pesticide in that country versus the pesticide's benefit.

Section 17(b) of FIFRA requires that EPA notify foreign governments and appropriate international agencies "Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective...." EPA does not have any regulation or formal policy statement on when to issue a notice. Instead, EPA issues notices to foreign governments and international organizations on those cancellations and suspensions of U.S. pesticide registrations it deems of "national or international significance." EPA prepares these notices of control action and sends them to the Department of State, which forwards the information to all U.S. embassies for transmittal to their host governments. These notices explain the action, and the health and safety concerns that prompted it, and offer additional information upon request.

EPA NOT EFFECTIVELY MONITORING EXPORT OF UNREGISTERED PESTICIDES

EPA does not have a program to monitor compliance with pesticide export notification requirements under Section 17(a) of FIFRA. To determine compliance, EPA would have to match the information on the export notices with information it receives from manufacturers of unregistered pesticide exports. Any compliance-monitoring effort would be hampered by the inadequate quality and type of information contained in the notices of export. We found that the notices lack clarity and may not contain enough meaningful information to be useful to foreign governments in properly identifying products.

EPA's ability to monitor compliance is also hindered by its enforcement policy governing section 17(a). Under EPA's policy, the requirement in section 17(a) concerning an export notice is not applicable to unregistered pesticides that are similar in composition and use to registered products in the United States. This policy, in effect, exempts the majority of unregistered pesticide exports. Our review of 16 companies exporting about 80 percent of the unregistered pesticide products determined that EPA received notices on only about 26 percent of the exported products. All exporting companies cited EPA's "similar in composition and use" policy as reasons for not obtaining section 17(a) notices. EPA's policy, in effect, hampers any effort EPA might make to monitor compliance since it would have to determine whether a particular exported unregistered pesticide is or is not similar to any of approximately 45,000 registered pesticide products--a difficult and time-consuming exercise.

We believe that oversight of pesticide exports can be strengthened and have recommended that EPA take the following actions:

-- Change EPA's enforcement policy concerning an unregistered pesticide currently used for section 17(a) notices, which in effect exempts a large number of pesticides claimed to be similar to registered pesticides. Such a change would then be consistent with the way EPA treats an unregistered pesticide used throughout the rest of the pesticide program.

-- Require manufacturers to improve the quality and type of information contained in the export notices, such as reporting full chemical descriptions.

-- Monitor compliance with the notification requirements by matching export notice information with export production data.

We also recommend that EPA regularly provide this information to FDA to assist FDA in its monitoring of pesticide residues on imported food.

FOREIGN COUNTRIES NOT ADEQUATELY NOTIFIED OF PESTICIDES OF U.S. CONCERN

EPA does not have adequate procedures for preparing and issuing notices to foreign countries and international organizations when it has taken significant action on a pesticide because of a serious health or environmental concern, as required by Section 17(b) of FIFRA. Consequently, EPA has not issued notices to foreign governments for all pesticides where significant action has been taken. We identified four pesticides that were voluntarily canceled by the manufacturer after EPA began special reviews because of concerns about birth defects; and carcinogenic, oncogenic, and neurotoxic effects. Although EPA finalized the

cancellations of these four pesticides from 1985 through 1987, it issued a notice on only one of these pesticides.

The notification to foreign governments of U.S. suspension and cancellation of pesticide registrations benefits both the United States and the foreign governments. Foreign governments benefit because they are alerted to unreasonable hazards associated with using particular pesticides and can act to lessen exposure of their workers and citizens. The United States benefits when a foreign government restricts using these harmful pesticides on crops that are subsequently imported into the United States. Other countries importing these same crops obviously benefit as well.

In addition to such notices, EPA periodically publishes a booklet that summarizes and clarifies its actions on canceled, suspended, and restricted pesticides. Unfortunately, this booklet was last published in 1985. Such a booklet, if updated annually, could be used by foreign governments and others as a reference guide to U.S. regulatory actions on pesticides. Foreign governments agree that such information would be very helpful. The booklet would not be a substitute for the notices, but notices issued after the booklet's annual update would supplement it to give the foreign governments a complete up-to-date picture of U.S. regulatory action.

We are recommending that EPA take the following actions to improve its notification program:

-- Develop internal criteria and procedures for determining whether and when to prepare and issue a notice of regulatory action (sec. 17(b) notices), including specifying what constitutes a significant action on a pesticide.

-- Annually update and issue to all parties concerned, including foreign governments, its booklet on suspended, canceled, and restricted pesticides.

-- Establish guidance on section 17(a) transmittal procedures for sending notices to foreign governments and, in cooperation with the Department of State, annually update and send both section 17(a) and 17(b) guidance to U.S. embassies.

- - - - -

The improvements that we have recommended should provide more information to foreign governments to assist them in managing the use of potentially harmful pesticides in their countries. Our country also benefits from this information exchange because of the increase in food grown in foreign countries that is subsequently imported by the United States and consumed by our citizens.

Mr. Chairman, this concludes my prepared statement. I will be glad to respond to any questions that you or members of the Subcommittee might have.